

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 04-249
Table of Allotments,	)	RM-10999
FM Broadcast Stations.	)	
(Yazoo City and Benton, Mississippi)	)	
	)	

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: January 5, 2005**

**Released: January 10, 2005**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rulemaking*<sup>1</sup> issued at the request of SSR Communications, Inc., licensee of Station WYAB(FM), Yazoo City, Mississippi, (“Petitioner”), proposing the reallocation of Channel 226A from Yazoo City, Mississippi to Benton, Mississippi, as the community’s first local transmission service, and the modification of the license for Station WYAB(FM) to reflect the changes. Petitioner filed comments reiterating its intention to file an application for the channel and to construct the facilities if the application is granted. No counterproposals or additional comments were received in response to this proceeding.

2. Petitioner filed this proposal for reallocation in accordance with the provisions of Section 1.420(i) of the Commission’s Rules, which permits the modification of a station’s license to specify a new community of license while not affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment.<sup>2</sup> In considering a reallocation proposal, we compare the existing allotment to the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments. This determination is based upon the FM Allotment priorities.<sup>3</sup>

3. In response to the *Notice*, Petitioner provided additional support for the community status of Benton to supplement its showing in the petition for rulemaking that Benton has its own zip code (39039) and post office, and that the 2000 U.S. Census shows 2,112 persons within Benton’s zip code. Petitioner states in its comments that Benton has chosen not to incorporate because most of its citizens feel that additional taxes and the current proliferation of services make incorporation unnecessary. Petitioner provides numerous pictures showing churches, businesses, schools, the volunteer fire department, utility companies, post office, country club and road signs all located within and bearing the name of Benton, Mississippi. While there is no government, police department or other municipal services we normally associate with communities, Petitioner argues that the volunteer fire department and the well-organized Neighborhood Watch crime-fighting program provide adequate protection for

<sup>1</sup> See *Yazoo City and Benton, Mississippi*, 19 FCC Rcd 2785 (2004).

<sup>2</sup> See *Amendment of the Commission’s Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License (“Change of Community R&O”)*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

<sup>3</sup> See *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88, 91 (1988). The FM Allotment priorities are (1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to given to priorities (2) and (3)].

Benton's citizens. Petitioner also notes that Benton has its own voting precinct with 852 registered voters, and includes a statement of the Circuit Clerk attesting to this fact.

4. We find that Benton is a community for allotment purposes and that this proposal will serve the public interest as a preferential arrangement of allotments. Petitioner has provided adequate documentation in support of Benton's community status. It has established that Benton is a "distinct geographical population grouping," *i.e.*, a grouping of residents with a common identity evidenced by such entities as local businesses, a post office, schools and churches.<sup>4</sup>

5. The proposal will be a preferential arrangement of allotments for the following reasons. The community of Yazoo City, 2000 U.S. Census population 14,550 persons, would not be deprived of its sole local service.<sup>5</sup> The proposal would provide a first local aural transmission service at Benton, under Priority (3), which is preferred over the retention of a second local transmission service at Yazoo City, which would serve Priority (4). Additionally, Benton is not in any urbanized area, and its proposed 70dBu will cover less than 50 percent of any urbanized area.<sup>6</sup> Finally, the loss area of 440 persons would remain well served with five or more services.

6. Channel 226A can be reallocated at Benton at a site 2.2 kilometers (1.4 mile) northwest of the community.<sup>7</sup>

7. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

8. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective February 25, 2005, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Community</u>	<u>Present</u>	<u>Channel</u>	<u>Proposed</u>
Yazoo City, Mississippi	221A, 226A		221A
Benton, Mississippi	---		226A

9. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a) the authorization of SSR Communications, Incorporated for Station WYAB(FM), Channel 226A, Yazoo City, Mississippi, IS MODIFIED to specify operation at Benton, Mississippi, subject to the following conditions:

(a) Within 90 days of the effective date of the *Order*, the licensee of Station WYAB(FM) shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the

<sup>4</sup> See, e.g., *Implementation of BC Docket No. 80-90 to Increase the Availability of FM Broadcasting Assignments (Semora, North Carolina)*, 5 FCC Rcd 934 (1990); *Everglades City, Florida*, 15 FCC Rcd 9427, 9429 (MMB 2000); *Kenansville, Florida*, 10 FCC Rcd 9831 (1995); and *Harrodsburg and Keene, Kentucky*, 17 FCC Rcd 13506 (MB 2002); *Crisfield, Maryland*; *Belle Haven, et al., Virginia*, 18 FCC Rcd 19561 (MB 2003).

<sup>5</sup> Station WJNS-FM, will remain in Yazoo City. Petitioner notes that unbuilt Station WYAZ(FM), Channel 208, is also authorized to serve Yazoo City.

<sup>6</sup> See *Headland, Alabama, and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995).

<sup>7</sup> The coordinates for Channel 226A at Benton are 32-50-29 NL and 90-16-28 WL.

new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules, unless the proposed facilities are categorically excluded from environmental processing

10. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, IF THE REQUEST IS GRANTED, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, SSR Communications, Incorporated, licensee of Station WYAB(FM), Yazoo City, Mississippi, is required to submit a rulemaking fee in addition to the fee required for the application to effectuate the change in community of license for Station WYAB(FM), Channel 226A, Yazoo City, Mississippi to Benton, Mississippi at the time its Form 301 application is submitted.

11. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

12. For further information concerning this proceeding, contact Victoria M. McCauley (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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